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Notice of Allowability	Application No.	Applicant(s)	
	10/828,778	SURMA ET AL.	
	Examiner	Art Unit	
	Peter J. Vrettakos	3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Election 1-17-07.
2. ☒ The allowed claim(s) is/are 1,2,5-18 and 20-27.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>10/19/05,8/2/4</u> 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | <ol style="list-style-type: none"> 5. <input type="checkbox"/> Notice of Informal Patent Application 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance 9. <input type="checkbox"/> Other _____. |
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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Shawn Bauer on July 16, 2007.

The application has been amended as follows:

1. (currently amended) An apparatus for securing a sensor to a surgical instrument for use in computer guided orthopaedic surgery, the apparatus comprising:

a sensor support having (i) a support arm configured to support the sensor, and (ii) a stem having (a) a first end secured to the support arm, and (b) a second end expandable from a first position in which the second end of the stem has a first width and a second position in which the second end of the stem has a second, larger width, and (c) a passageway defined in an inner sidewall of the stem, wherein the inner sidewall of the stem is tapered at the second end of the stem, and

a pin configured to move the second end of the stem from the first position to the second position, wherein (a) the pin has a tapered end, and (b) insertion of the pin into the passageway causes the tapered end of the pin to engage the tapered inner sidewall of the stem to move the second end of the stem from the first position to the second position.

2. (currently amended) The apparatus of claim 1, wherein:
~~the stem has a passageway extending therethrough,~~
the passageway defines a first opening at the second end of the stem
when the second end of the stem is positioned in the first position, and
the passageway defines a second opening at the second end of the stem
when the second end of the stem is positioned in the second position, the second
opening being larger than the first opening.

3. Canceled.

4. Canceled.

17. (currently amended) An apparatus for securing a sensor to a surgical instrument for use in computer guided orthopaedic surgery, the apparatus comprising:

a support arm configured to support the sensor, and

a stem having a first end and a second end, wherein (i) the first end of the stem is secured to the support arm, ~~and~~ (ii) the second end of the stem is expandable between a first position in which the second end of the stem has a first width and a second position in which the second end of the stem has a second, larger width, and (iii) a passageway is defined in an inner sidewall of the stem, and (iv) the inner sidewall of the stem is tapered at the second end of the stem, and

a pin configured to move the second end of the stem from the first position to the second position, wherein (i) the pin has a tapered end, and (ii) insertion of the pin into the passageway causes the tapered end of the pin to engage the tapered inner sidewall of the stem to move the second end of the stem from the first position to the second position.

18. (currently amended) The apparatus of claim 17, wherein:

~~the stem has a passageway extending therethrough,~~

the passageway defines a first opening at the second end of the stem when the second end of the stem is positioned in the first position, and

the passageway defines a second opening at the second end of the stem when the second end of the stem is positioned in the second position, the second opening being larger than the first opening.

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19. Canceled.

Claims 28-41 are cancelled. (These claims would have been restricted out, if not cancelled).

The following is an examiner's statement of reasons for allowance: the prior art neglects to disclose or suggest the apparatus in independent claims 1 and 17. Applicant's figures 6-8 show the claimed apparatus. Specifically, the figures show a sensor support having a support arm (36) configured to support the sensor (would be attached to 40), and a stem (30) having a first end secured to the support arm, a second end expandable (this expandability fills space 16) from a first position in which the second end of the stem has a first width and a second position in which the second end of the stem has a second, larger width, and a passageway (44) defined in an inner sidewall of the stem, wherein the inner sidewall of the stem is tapered (34) at the second end of the stem, and

a pin (22) configured to move the second end of the stem from the first position to the second position, wherein the pin has a tapered end (73), and insertion of the pin into the passageway causes the tapered end of the pin to engage the tapered inner sidewall of the stem to move the second end of the stem from the first position to the second position.

The closest prior art is seen in USPN 3,713,611 figure 1 excerpts col. 2:17-44. The patented invention neglects to show the tapered elements (73 and 34), as well as the configuration claimed where the pin (22) causes expansion of the stem (30) which

leads to filling of space 16 (representing claimed "first position" and "second position") as seen in figures 6 through 8 and found in Applicant's claims 1 and 17.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter J. Vrettakos whose telephone number is 571-272-4775. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on 571-272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Pete Vrettakos

July 16, 2007

/Michael Peffley/
Primary Examiner
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